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November 24, 2004

Ms. Marlene Dortch, Secretary Federal Communications Commission The Portals, TW-A325 445 12th Street, SW Washington, DC 20554

Re: Ex Parte Presentation – Review of the Section 251 Unbundling Obligations of

Incumbent LECs (CC Docket Nos. 01-338, 96-98, 98-147); Unbundled Access to

Network Elements (WC Docket 04-313)

Dear Ms. Dortch:

On November 23, 2004, the undersigned, on behalf of EarthLink, Inc., had a telephone conversation with Mr. Christopher Libertelli, Senior Legal Advisor to Chairman Powell, regarding the above-referenced dockets. EarthLink noted that the question of contributions of line sharing to the competitive landscape is one of fact, and that a majority of the Commissioners have agreed line sharing has contributed to broadband competition. EarthLink stated that if the Commission finds that line sharing contributes to competition, that order would satisfy judicial review. EarthLink also pointed out that a line sharing UNE would further the broadband goals of Section 706, as the Commission's Triennial Review Order recognizes that intramodal competition on the incumbent LEC copper network is in the public interest (in contrast with its finding regarding unbundling of incumbent LEC fiber elements).

Pursuant to the Commission's rules, one copy of this memorandum is being filed electronically in each of the above-referenced dockets for inclusion in the public record. Please do not hesitate to call me if you have any questions.

Respectfully submitted,

/s/

Mark J. O'Connor Counsel for EarthLink, Inc.